

**REMARKS**

Claims 36-68 are pending in the application with claims 36, 45, 51 and 62 being independent.

Claims 36, 38-45, 47-53, 58, 61-62, 64-68 are rejected under 35 U.S.C. §102(a) as being anticipated by Wheat, Tammy (Pub# WO 03/067851, hereinafter Tammy).

Claims 37 and 46 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tammy as applied to claims 36 and 45 above, and further in view of Wenocur et al. (Pub#2003/0041110, hereinafter Wenocur).

Claims 54-57 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tammy as applied to claims 52 and 53 above, and further in view of Forstadius (Pub#2004/0110462, hereinafter Forstadius).

Claims 59 and 63 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tammy as applied to claims 58 and 62 above, and further in view of Montemer (Pub#2004/0023644, hereinafter Montemer).

Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tammy as applied to claim 58 above, and further in view of Croome (Pub#2005/0101309, hereinafter Croome).

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

#### **REJECTION UNDER 35 U.S.C. §102**

##### **Claims 36, 38-45, 47-53, 58, 61-62, 64-68**

Claims 36, 38-45, 47-53, 58, 61-62, 64-68 are rejected under 35 U.S.C. §102(a) as being anticipated by Tammy. The rejection is traversed.

Anticipation requires the presence in a single prior art disclosure of each and every element of the claimed invention, arranged as in the claim. The Tammy reference fails to teach or suggest each and every element of amended claim 36 as arranged in the claim.

Specifically, Tammy fails to teach or suggest at least:

“wherein the infrastructure facilitates the delivery of multiple content types to different devices using different protocols” and “said generic definition includes consideration of resource constraints of the different devices.” as recited in Applicants’ amended claim 36.

Rather, Tammy is directed toward “a subscriber utilizing a mobile station (MS) to send a request to a B2B engine to find a nearby fixed station, i.e., a restaurant. A reservation management company i.e., a service provider, interconnected with the B2B engine, may provide a reservation application to member to member restaurants and a restaurant module for integration with the B2B engine.” See Abstract.

As such, for at least these reasons, independent claim 36 is not anticipated by Tammy and is patentable under 35 U.S.C. §102(a).

Amended independent claims 45, 51 and 62 recite relevant limitations similar to those recited in independent claim 36. As such, for at least the same reasons discussed above, amended independent claims 45, 51 and 62 also are not anticipated by Tammy and are patentable under 35 U.S.C. §102(a). Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim also is not anticipated by Tammy and is patentable under 35 U.S.C. §102(a).

Therefore, Applicants' claims 36, 38-45, 47-53, 58, 61-62, 64-68 are patentable over Tammy under 35 U.S.C. 102. The Examiner is respectfully requested to withdraw the rejection.

### **Rejection Under 35 U.S.C. §103**

#### **Claims 37, 46, 54-57, 59, 60, 63**

Claims 37 and 46 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tammy as applied to claims 36 and 45 above, and further in view of Wenocur. Claims 54-57 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tammy as applied to claims 52 and 53 above, and further in view of Forstadius. Claims 59 and 63 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tammy as applied to claims 58 and 62 above, and further in view of Montemer. Claim 60 is rejected under 35 U.S.C. §103(a) as being unpatentable over Tammy as applied to claim 58 above, and further in view of Croome. The rejections are traversed.

Each of these grounds of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. §102 given Tammy. Since the rejection under 35 U.S.C. §102 given Tammy has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that the additional references supply that which is missing from Tammy to render the independent claims unpatentable, these grounds of rejection cannot be maintained.

Therefore, Applicants' claims 37, 46, 54-57, 59, 60, 63 are patentable under 35 U.S.C. §103. The Examiner is respectfully requested to withdraw the rejections.

**CONCLUSION**

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall or Emmanuel Coffy at (732) 842-8110 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: \_\_\_\_\_

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